

Members

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Sen. David Long
Sen. John Broden
Sen. Timothy Lanane
Rep. Kathy Richardson, Vice-Chairperson
Rep. Ralph Ayres
Rep. Robert Kuzman
Rep. Ryan Dvorak
G. Michael Witte
Larry Bye
Chief Justice Randall Shepard
Ron Tabacynski
Jacqueline Rowan



COMMISSION ON COURTS

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Authority: IC 33-23-10

MEETING MINUTES¹

Meeting Date: October 19, 2006
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Richard Bray, Chairperson; Rep. Kathy Richardson, Vice-Chairperson; Rep. Ralph Ayres; Rep. Ryan Dvorak; G. Michael Witte; Larry Bye; Chief Justice Randall Shepard.

Members Absent: Sen. David Long; Sen. John Broden; Sen. Timothy Lanane; Rep. Robert Kuzman; Ron Tabacynski; Jacqueline Rowan.

Sen. Richard Bray, Chairperson of the Commission on Courts (Commission), called the meeting to order at 1:43 p.m. He stated that this would be the final meeting of the Commission during the 2006 interim.

The first person to testify was Judge William Hughes from the Hamilton Superior Court. Judge Hughes stated he was representing the Jury Committee of the Indiana Judicial Conference (Jury Committee). Judge Hughes said there were currently three chapters in the Indiana Code concerning jury selection. He stated one of the chapters was the

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original circuit court jury selection chapter, a second chapter was enacted to deal with jury selection by use of computers, and the third chapter concerned jury selection in Lake County.

Judge Hughes said the Jury Committee was proposing to repeal the original circuit court and Lake County jury selection chapters and consolidate these three chapters into the one remaining chapter to create a general jury selection chapter that conformed with jury rules adopted by the Indiana Supreme Court.

Judge Hughes then distributed a draft of the Jury Committee's proposed legislation (Handout #1). Judge Hughes said the draft also contained provisions that would amend or remove language concerning jury selection found in chapters that deal with courts in specific counties to conform with the general jury selection chapter.

In response to questions from Sen. Bray, Judge Hughes said the draft did not amend the Indiana Code provision concerning jury selection by city courts (IC 33-35-5-5). Judge Hughes stated the Jury Committee would welcome input from the Commission concerning jury selection by city courts.

Judge Hughes continued by stating that court records showed there were 219 jury trials conducted by city courts in 2004. Mark Goodpaster, fiscal analyst for the Commission, added that records showed 206 of those trials occurred in the Nappanee town court. Mr. Goodpaster stated it's possible that figure was in error.

Sen. Bray questioned why the draft included language concerning persons who had been convicted of crimes of domestic violence being unable to possess firearms. Timothy Tyler, attorney for the Commission, stated the General Assembly had placed this provision in Title 3 concerning elections as well as Title 33 concerning courts in 2003. He stated the language was placed in these Titles to specify that a person convicted of a crime of domestic violence may not possess a firearm even after the person's right to vote or right to serve on a jury had been restored. However, he stated he was not certain why language that set forth the specific procedures that an individual had to follow to have his or her right to possess a firearm restored was also placed in both Title 3 and Title 33.

Michelle Goodman, staff attorney for the Indiana Judicial Center, stated the domestic violence and firearms language had been placed in these Titles as a response to the case of *United States v. Brown*. [In *United States v. Brown*, 235 F. Supp.2d 931 (S.D. Ind. 2002), the Court held that because under IC 3-7-13-6 the defendant's loss of voting privileges and under IC 33-4-5-7(b)(4) the defendant's loss of the right to serve on a jury both came to an end as soon as his incarceration ended for a domestic violence misdemeanor offense, the defendant then qualified as a person whose civil rights had been restored. Accordingly, the defendant was exempt, from the firearms disability imposed by the 1996 amendment (the "Lautenberg Amendment") to the Gun Control Act of 1968.]

After Commission discussion, a motion was made and seconded that the Commission endorse the recommendation of the Jury Committee to consolidate jury selection provisions in the Indiana Code in one chapter that conformed to Supreme Court jury rules with the understanding that provisions concerning domestic violence and firearms and city court jury selection may need to be amended or removed from any legislation introduced during the 2007 Session of the General Assembly. The motion was adopted by unanimous voice vote.

Sen. Bray then stated there were several other topics considered by the Commission at

earlier meetings that the Commission may want to consider for recommendation or endorsement in its final report.

Sen. Bray stated one of the topics considered earlier by the Commission was the increasing caseload of the Indiana Court of Appeals. After Commission discussion, a motion was made and seconded that the Commission should recommend that the General Assembly should add another three judge panel to the Court of Appeals before January 1, 2009. The motion was adopted by unanimous voice vote.

Sen. Bray stated another topic considered earlier by the Commission was the creation of an additional magistrate position in Hamilton County due to the increasing caseload and population in that county. After Commission discussion, a motion was made and seconded that the Commission endorse an additional magistrate for Hamilton County. The motion was adopted by unanimous voice vote.

Chief Justice Shepherd then suggested the 2006 Final Report of the Commission should list the requests for new judicial officers based on a county's relative need for the officers. A motion was made and seconded that new judicial officers endorsed by the Commission should be listed in the Final Report based on the severity of need by county as shown in the Indiana Trial Courts 2005 Weighted Caseload Report (WCR). The motion was adopted by unanimous voice vote.

Sen. Bray stated the next topic the Commission would consider was the creation of a new judicial circuit for Switzerland County. After Commission discussion, a motion was made and seconded that a new judicial circuit should be created for Switzerland County, that Jefferson County should remain as the only county in the current Jefferson-Switzerland joint circuit court, and that the Ohio-Switzerland joint superior court should be dissolved as of January 1, 2009, when the term of the current judge of the Ohio-Switzerland joint superior court expires. A roll call vote was taken on the motion. Six members voted in favor of the motion and Judge Witte abstained, stating he felt it would be a conflict of interest for him to vote since he serves on the Dearborn Superior Court and Dearborn County would be affected by the creation of a Switzerland judicial circuit. Sen. Bray explained that the motion failed for lack of a majority because the Legislative Council rules for interim study committees required at least seven of the Commission's 13 members to vote in favor of making an endorsement or a recommendation in a final report.

Sen. Bray said the next topic for consideration was the creation of a specialized Commercial Vehicle Court to handle Commercial Driver's License (CDL) cases and other commercial motor vehicle cases. Mark Goodpaster distributed a memo (Handout #2) to Commission members that estimated the number of cases in Indiana that involved CDLs.

Mr. Goodpaster stated the Judicial Technology Automation Commission (JTAC) staff reported there were 24,662 cases involving CDL license holders between July 1, 2005, and June 30, 2006. Mr. Goodpaster stated that, using the weighted caseload methodology employed in the WCR, it appeared that the impact of these cases would be minimal on the workload of Indiana trial courts. He stated between one and two hearing officers would be needed to adjudicate these traffic cases.

Several members of the Commission questioned how deferral and diversion programs affected the JTAC data. Mr. Goodpaster stated that was not clear based on the information he received from JTAC. After Commission discussion, a motion was made and seconded that a resolution should be introduced during the next session of the General Assembly urging that the creation of a specialized Commercial Vehicle Court should be studied further during the 2007 interim. The motion was adopted by unanimous voice vote.

Sen. Bray stated the final issue to be considered by the Commission was extending the Commission beyond its current June 30, 2007, expiration date as found in IC 33-23-10-8. A motion was made and seconded that the expiration date should be changed to June 30, 2011. The motion was adopted by unanimous voice vote.

Sen. Bray then moved that 2006 Final Report of the Commission, which includes a summary of the work program of the Commission during the 2006 interim plus the recommendations and endorsements made by the Commission, should be approved. The motion was seconded. A roll call vote was taken on the motion and the Commission approved the Final Report by a vote of 7 - 0.

Sen. Bray adjourned the meeting at 2:49 p.m.